

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DARRYL WAYNE TAYLOR,

Petitioner,

v.

WILLIAM STEPHENS,

Respondent.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-14-0178

ORDER OF DISMISSAL


State inmate Darryl Wayne Taylor filed a *pro se* section 2254 habeas petition challenging his 2006 conviction for aggravated robbery with a deadly weapon. A review of the Court's records shows that petitioner filed a section 2254 habeas petition challenging this conviction in *Taylor v. Stephens*, C.A. H-12-0573 (S.D. Tex. 2012), and that the petition was dismissed without prejudice for failure to exhaust. Petitioner's appeal of that dismissal is pending in the Fifth Circuit Court of Appeals. *Taylor v. Stephens*, Appeal No. 13-20131.

A review of petitioner's state habeas proceeding shows that his application for state habeas relief remains pending in the trial court. Because the question of petitioner's right to pursue his federal habeas claims in absence of state court exhaustion is being currently addressed by the Fifth Circuit, the Court cannot take further action in the instant case, as it would involve the same question. Although the state trial court's continued delay in finalizing petitioner's state habeas proceedings is an issue of significant concern for this

Court, the Court is constrained to dismiss this case without prejudice due to the pending appeal in the Fifth Circuit Court of Appeals.

Accordingly, this case is DISMISSED WITHOUT PREJUDICE. A certificate of appealability is DENIED. Any and all pending motions are DENIED AS MOOT.

Signed at Houston, Texas on January 29, 2014.



Gray H. Miller
United States District Judge